

REMARKS

Claim 7 has been rejected under 35 USC 102(e) as anticipated by Lee. The rejection is respectfully traversed.

In response to Applicant's arguments, the Examiner states that the phrase "managing resources that does not use a pre-established backup LSP" is not given any patentable weight since it appears in the preamble of the claim. Applicants respectfully disagree.

As an initial matter, a preamble may provide patentable weight, where as here, the limitations in the body of the claim refer back to preamble such that they breath life and meaning into the claim. See, *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305, 51 USPQ2d 1161, 1165-66 (Fed. Cir. 1999). See also, *Jansen v. Rexall Sundown, Inc.*, 342 F.3d 1329, 1333, 68 USPQ2d 1154, 1158 (Fed. Cir. 2003).

In any event, the limitations being referred to by Applicant are recited in the body of the claim, not the preamble. The Examiner is therefore erroneous in his conclusion. As stated in the previously filed response, Lee fails to disclose determining...by the source node a substitute path for rerouting the signal transmission...according to a second resource to be established, using a control signal generated by the source node. (Applicants note that the "determining" step is recited in the body of the claim). Rather, Lee teaches rerouting network traffic in the even of a failure. To perform fast rerouting, Lee uses a pre-established backup label switch path (LSP). The pre-established backup LSP exists during normal operation and even before a failure occurs. Hence, when a failure occurs, Lee does not need to determine a substitute path, as required in the claim. Moreover, as the backup LSP is already pre-established, there is no disclosure of a control signal generated by the source node to determine a substitute path. The control signal in Lee is identical with the fault indication (FIS) message and is generated by LSR3, which is a node affected by a failure. In the claimed invention, on the other hand, a control message is used distinctly from the error message. The error message is generated by a node affected by the imperfection and the control message is generate by the source node in the process of finding a substitute path. Thus, the control message is generated as reaction to the error message. It should also be noted that the claimed invention requires "upon receipt of the error message", which means that a substitute path is only determined after the error message has been received.

Hence, the use of a pre-established substitute path is a static configuration, and can not account for errors with occur dynamically.

Additionally, Lee fails to disclose establishing a second resource for switching the link sections of the substitute path..., wherein the second resource is established using the control signal and the first resource, and wherein switched link sections common to the path and the substitute path are maintained. Rather, Lee does not disclose using a control signal generated by the source node to determine a substitute path, as discussed above. Hence, Lee can not disclose establishment of a second resource using such a control signal and the first resource. And, since Lee uses a pre-established backup LSP, there is no establishment of a second resource such that only such link sections disposed in the rerouting and in need or re-switching are newly switched by the network nodes included in the rerouting, wherein switched link sections common to the path and the substitute path are maintained.

Claims 8-14 have been rejected under 35 USC 103(a) as unpatentable over Lee in view of Nathan. The rejection is respectfully traversed for at least the reasons presented in the arguments above, and for the reasons presented in the earlier filed response. Additionally, Applicants note that the Examiner's reasoning for the modification of Lee is simply that "it would have been obvious...to modify the features of Lee et al. by using features as taught by Nathan et al. in order to withstand multiple link failures and to provide self-healing in the network nodes (See col. 1-2, lines 54-67 and lines 1-13.)" However, the Examiner fails to state why this modification would have been obvious. Rather, the Examiner provides a consequence of the modification, namely to withstand multiple link failures and to provide self-healing. But the question remains, why would this specific modification been obvious to arrive at the combination of references?

In view of the above, Applicants submit that this application is in condition for allowance. An indication of the same is solicited.

The Commissioner is hereby authorized to charge deposit account 02-1818 for any fees which are due and owing, referencing Attorney Docket No. 119010-428.

Respectfully submitted,

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